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Oceans and the law of the sea

Letter dated 8 June 2012 from the Co-Chairs of the Ad Hoc Open-ended Informal Working Group to the President of the General Assembly

Pursuant to paragraph 80 of General Assembly resolution 60/30 of 29 November 2005, we were reappointed as Co-Chairs of the Ad Hoc Open-ended Informal Working Group to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction, which was established pursuant to paragraph 73 of General Assembly resolution 59/24. In accordance with paragraph 168 of General Assembly resolution 66/231, the Working Group met from 7 to 11 May 2012.

We are pleased to inform you that the Working Group fulfilled its mandate to provide recommendations to the General Assembly as requested in resolution 66/231 (paragraph 168). We have the honour to submit to you the outcome of the meeting (see annex).

It would be appreciated if the present letter and the outcome of the meeting be circulated as a document of the General Assembly, under item 76 (a) of the preliminary list.

(*Signed*) Palitha T. B. **Kohona**
Liesbeth **Lijnzaad**
Co-Chairs

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Annex

Report of the Ad Hoc Open-ended Informal Working Group to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction and Co-Chairs' summary of discussions

I. Recommendations

1. The Ad Hoc Open-ended Informal Working Group to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction, having met from 7 to 11 May 2012 in accordance with paragraphs 167 and 168 of General Assembly resolution 66/231, recommends that, at its sixty-seventh session, the General Assembly:

(a) Welcome the first meeting of the Working Group within the process initiated by the General Assembly in resolution 66/231, with a view to ensuring that the legal framework for the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction effectively addresses those issues by identifying gaps and ways forward, including through the implementation of existing instruments and the possible development of a multilateral agreement under the United Nations Convention on the Law of the Sea, and take note of the exchange of views at that meeting on aspects of issues referred to in the Co-Chairs' summary of discussions, some of which the Working Group decided should be further addressed at the intersessional workshops that will take place in 2013;

(b) With a view to improving understanding of the issues and clarifying key questions as an input to the work of the Working Group, request the Secretary-General to convene, within existing resources, two intersessional workshops before the next meeting of the Working Group on the topics and in accordance with the modalities set out in the terms of reference, as agreed by the Working Group and appended to these recommendations;[a]

(c) Request the Working Group, at its next meeting, to continue to consider, together and as a whole, all issues under its mandate, taking into account the discussions at its meeting in 2012, as well as the input of the intersessional workshops to the work of the Working Group, and provide recommendations to the General Assembly at its sixty-eighth session for making progress on ways to fulfil the mandate provided for in paragraph 167 of resolution 66/231, taking into account paragraph (a) of the present recommendations;

(d) Request the Secretary-General to convene, with full conference services, a meeting of the Working Group in the second half of 2013, to provide recommendations to the General Assembly at its sixty-eighth session, and also request the Secretary-General to make every effort to meet the requirement for full conference services within existing resources;

(e) Request the Secretary-General to use existing trust funds through earmarked contributions to facilitate the participation of panellists and representatives from developing countries, in particular least developed countries,

[a] To be annexed to the resolution on oceans and the Law of the Sea to be adopted by the General Assembly at its sixty-seventh session.

small island developing States and landlocked developing States, in the intersessional workshops and invite Member States, international financial institutions, donor agencies, intergovernmental organizations, non-governmental organizations and natural and juridical persons to make financial contributions to these trust funds and to make other contributions to the intersessional workshops.

II. Co-Chairs' summary of discussions*

2. The Ad Hoc Open-ended Informal Working Group to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction met at United Nations Headquarters, from 7 to 11 May 2012. In accordance with paragraph 168 of resolution 66/231, the Working Group was convened to provide recommendations to the General Assembly at its sixty-seventh session.

3. The meeting of the Working Group was presided over by two Co-Chairs, Palitha T. B. Kohona (Sri Lanka) and Liesbeth Lijnzaad (Netherlands), appointed by the President of the General Assembly in consultation with Member States. An open-ended Group of Friends of the Co-Chairs assisted the Co-Chairs throughout the meeting.

4. The Assistant Secretary-General for Legal Affairs, Stephen Mathias, delivered opening remarks on behalf of the Secretary-General and the Legal Counsel of the United Nations.

5. Representatives from 74 Member States, 12 intergovernmental organizations and other bodies and 11 non-governmental organizations attended the meeting of the Working Group.

6. The Working Group adopted the agenda with amendments (A/AC.276/5) and agreed to proceed on the basis of the proposed format, annotated agenda and organization of work, without reference to "closed sessions" (A/AC.276/L.8).

7. On 11 May, the Working Group adopted the recommendations contained in section I above by consensus.

8. At the request of the Working Group, the Co-Chairs prepared the present brief summary of discussions on key issues, ideas and proposals referred to or raised during the deliberations.

General considerations

9. Delegations reaffirmed the importance of the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction to the three pillars of sustainable development. The value of marine biodiversity for food security, better health and advancement of science was particularly highlighted.

10. Many delegations recalled the central role of the General Assembly with regard to the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction. In this connection, several delegations were of the view that the Working Group represented the only international forum at which all aspects

* The summary is intended for reference purposes only and not as a record of the discussions.

related to marine biodiversity beyond areas of national jurisdiction were dealt with in a setting that encouraged wide participation and open discussions.

11. The role of the United Nations Convention on the Law of the Sea as the legal framework for all activities in the oceans and seas, including with respect to the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction, was emphasized by many delegations. A view was also expressed that a careful balance in the Convention between competing uses of the oceans and the rights and duties of States in the oceans had to be preserved.

Conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction, in particular, together and as a whole, marine genetic resources, including questions on the sharing of benefits, measures such as area-based management tools, including marine protected areas, and environmental impact assessments, capacity-building, and the transfer of marine technology, within the process initiated by the General Assembly in accordance with resolution 66/231

12. The view was expressed that the process initiated by the General Assembly in accordance with resolution 66/231 should address marine protected areas, environmental impact assessments and marine genetic resources in a balanced manner reflecting the concerns of all countries, in particular of developing countries, as regards capacity-building and the transfer of marine technology. Some delegations emphasized that the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction was the overall objective of developing an implementing agreement under the Convention. In their view this agreement should cover building blocks such as marine genetic resources, including questions on the sharing of benefits, measures such as area-based management tools, including marine protected areas and environmental impact assessments, capacity-building and the transfer of marine technology.

13. The need for an integrated approach to the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction was noted. Support was expressed for existing and enhanced cooperation and coordination among relevant States, institutions, organizations and sectors to achieve better management of, and planning for, sustainable multiple uses of marine biodiversity in areas beyond national jurisdiction. In that regard, an assessment of possible ways and means of achieving more effective coordination and implementation of sectoral management regimes in the fields of fisheries, seabed mining and shipping would be essential. It was suggested that the Working Group could consider such mechanisms for achieving coordinated implementation of ecosystem approaches by sectoral bodies and States, including through tools such as marine protected areas and environmental impact assessments.

14. The importance of improving the understanding of potential threats to marine biodiversity beyond areas of national jurisdiction from various uses and sectors was noted. While the importance of fostering scientific knowledge was highlighted, it was also stressed that carrying out further scientific studies could not be a precondition for a meaningful examination of the issues under discussion. Reference was also made to the precautionary principle which was included in the 1992 Rio Declaration on Environment and Development.

Marine genetic resources, including the sharing of benefits

15. A number of delegations reiterated their views regarding the provisions of the Convention applicable to marine genetic resources beyond areas of national jurisdiction. Some other delegations expressed the view that the regime set out under Part XI of the Convention was only applicable to the mineral resources of the Area. The view was expressed in favour of discussing the possibility of regulating marine genetic resources in areas beyond national jurisdiction, including the classification of those resources as the common heritage of mankind. Some delegations were of the view that marine genetic resources beyond areas of national jurisdiction were governed by Part VII of the Convention related to the high seas. They held that the non-exhaustive list of high seas freedoms set out in the Convention was not restricted to activities in the water column but also included activities involving or impacting the seabed and subsoil, such as the laying of cables and pipelines, the construction of artificial islands and installations and, in some cases, fishing practices and scientific research. Several delegations pointed out that the expression "areas beyond national jurisdiction" referred to two maritime areas, namely the high seas and the Area, whose nature and legal regime were different. They observed that, according to General Assembly resolution 2749 (XXV) and Part XI of the Convention, the Area and its resources were governed by the principle of "common heritage of mankind", which they considered to be part of customary international law. They noted that the regulation of activities in the oceans and use of their resources depended on the maritime zones in which they were conducted or found. The resources of the seabed and ocean floor beyond areas of national jurisdiction, including the living resources, were, therefore, resources of the Area and the principles enshrined in Part XI of the Convention were also applicable to marine genetic resources from the Area. In this respect, attention was drawn to the responsibilities entrusted to the International Seabed Authority with regard to marine scientific research and the protection of the marine environment.

16. The view was expressed that access to genetic resources of the Area and their exclusive exploitation by only a few, in the absence of a legal regime, had serious global economic and social implications and was not consistent with general principles of international law, in particular those on equity.

17. Offering a different perspective on the issue, a suggestion was made to focus on, inter alia, lessons learned from existing approaches to the management of genetic resources and principles and approaches which might be applicable. It was also suggested that consideration should be given to the question of whether measures could be developed and implemented to improve transparency around existing access to and use of marine genetic resources.

18. Some delegations were of the view that clarification was required as to the extent to which bioprospecting was currently taking place and as to its consequences for the environment and for commercial and non-commercial aspects, as well as the aspects of relevant intellectual property rights. The need to consider existing regulation for bioprospecting, including the provisions of the Convention on marine scientific research, was also noted. Understanding the scope of the term "marine genetic resources", as well as whether this term encompassed marine genetic resources from the seabed and subsoil only, or also from the water column, was also considered necessary. Discussions on the types of benefits envisioned, as well as examples of sharing of those benefits were called for. In relation to the sharing of

benefits arising from the use of marine genetic resources from areas beyond national jurisdiction, a suggestion was made to consider information sharing and assess whether benefit sharing was desirable and, if so, to what extent and how this could be best achieved. Some delegations were of the view that the experience gained from the implementation of the Nagoya Protocol, along with other instruments such as the International Treaty on Plant Genetic Resources for Food and Agriculture of the Food and Agriculture Organization of the United Nations, could usefully be considered. Concern was expressed that a new legal regime for benefit sharing would impede research and development in that regard. The view was expressed that the greatest benefits from these resources would come from the availability of the products that were made and the contributions of these products to public health, food security and science. Marine scientific research related to marine genetic resources was thus important and should be promoted.

19. It was suggested that practical mechanisms and options for benefit sharing also include addressing monetary and non-monetary benefits for equitable distribution; fostering effective participation of developing countries in strategic alliances between public sector scientific institutions and private sector biotechnology companies; and establishing research chains beginning in universities and culminating in industry. The view was expressed that the benefits from research and prospecting could be shared in an equitable manner, consistent with the goals of the Convention.

Area-based management tools, including marine protected areas

20. The importance of area-based management tools to support ecosystem approaches at the national, regional and global levels was noted. A view was expressed that marine protected areas should be established on a scientific basis, taking into account the specificities of the area and the species to be protected. Preserving the freedom of navigation and marine scientific research was also emphasized.

21. The need to consider the role of sectoral bodies and the importance of cross-sectoral coordination to effectively implement area-based management tools was highlighted.

22. Some delegations noted that there was no multilaterally agreed legal regime for the establishment of marine protected areas in areas beyond national jurisdiction. In this connection, it was observed that marine protected areas could not be established unilaterally or by a group of States. Concern was expressed about the legitimacy of such actions and measures. Some delegations suggested considering a process for the identification of marine protected areas in areas beyond national jurisdiction, as well as the criteria to be used and the respective roles of States, the General Assembly and sectoral and regional bodies in the designation and management of marine protected areas. It was also proposed that gaps and activities or pressures be identified that were either not regulated or unsatisfactorily regulated.

23. A suggestion was made that the Working Group could also consider criteria and processes for the identification of ecologically important areas beyond national jurisdiction.

Environmental impact assessments

24. Many delegations highlighted the important role of environmental impact assessments in ensuring the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction and in implementing the precautionary approach.

25. A proposal was made to consider the extent to which enhanced efforts on environmental impact assessments could be addressed within existing legal frameworks. In particular, attention was drawn to the need to assess whether the provisions of the Convention on monitoring and assessments (articles 204-206) were being implemented and whether enhanced guidance and governance regarding the requirements contained in those provisions were necessary. Several delegations expressed the view that the Convention only addressed environmental impact assessments in generic terms, and therefore such provisions were not implemented.

26. Several delegations observed that prevention of the deterioration of the marine environment and biodiversity could only be achieved through the implementation of environmental impact assessments and strategic environmental assessments incorporating cumulative impacts and addressing impacts from new and emerging activities, including experimental activities. Attention was drawn to the importance of taking into account the capacity of developing countries when formulating criteria and guidelines for environmental impact assessments beyond areas of national jurisdiction.

Capacity-building and transfer of marine technology

27. It was noted that ensuring conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction was also an issue of ability. In that regard, capacity-building and technology transfer was required to assist States that lacked the ability to face challenges arising from the conservation and sustainable use of marine biodiversity.

28. Transfer of marine technology was considered an essential tool for capacity-building in the field of marine science. Continued and enhanced participation of scientists from developing countries in marine scientific research in the Area was considered critical. A call was made to ensure implementation of Part XIII of the Convention in that regard.

Identification of gaps and ways forward, with a view to ensuring an effective legal framework for the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction, within the process initiated by the General Assembly in accordance with resolution 66/231

29. References were made to the relevant global and regional instruments complementing the Convention with regard to the protection and preservation of the marine environment, including the regulations adopted by the International Seabed Authority, the United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (the United Nations Fish Stocks Agreement), instruments developed through the International Maritime Organization, guidelines and codes of conduct developed by the Food and Agriculture Organization of the United Nations,

the Convention on Biological Diversity, the Convention on the Conservation of Migratory Species of Wild Animals, the Convention on International Trade in Endangered Species of Wild Flora and Fauna and the International Convention for the Regulation of Whaling, as well as the work of regional fisheries management organizations and arrangements and regional seas conventions. Some delegations stressed that the work should focus on achieving complementarities to existing mechanisms without infringing on the regulatory scope of existing agreements or duplicating ongoing efforts.

30. It was noted that the measures adopted in the context of those instruments should be consistent with the principles and objectives of the United Nations Convention on the Law of the Sea. Several delegations expressed concern that certain developments regarding areas beyond national jurisdiction under the Convention on Biological Diversity were inconsistent with the scope of the United Nations Convention on the Law of the Sea. With regard to regional initiatives, it was recalled that the mandate of regional fisheries management organizations and arrangements was limited to certain fish stocks and did not extend to the conservation and sustainable use of all marine biodiversity beyond areas of national jurisdiction.

31. It was noted that participation in, and full implementation of, existing instruments remained an important element for the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction. In the view of many delegations, the status quo was not effective for achieving the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction. In that regard, they expressed concern that even full implementation of existing instruments would not be sufficient. It was also noted that there was no comprehensive coverage of the oceans in terms of legal and governance frameworks.

32. Proposals were made to assess which of the existing principles, approaches, tools and best practices might be viable for the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction.

33. Some delegations noted that it was premature to discuss gaps and ways forward before conducting an analysis of the issues related to the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction, including through intersessional workshops. Several other delegations were of the view that the gaps were already well known.

Gaps

34. While recognizing the overarching framework provided by the Convention, many delegations, however, believed that the current regime for the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction contained a number of gaps. In that regard, regulation, implementation, governance, coordination and information sharing were identified as the areas for which major gaps existed.

35. Several delegations observed that regulatory gaps existed because the Convention was a framework instrument which, as such, could not contain the detailed provisions required to regulate specific activities. They also noted that, as a consequence of the development of new activities since the adoption of the Convention, important gaps existed in the specific regulation of those activities.

Some delegations drew attention to gaps in the regulation of marine genetic resources, including aspects related to access and benefits sharing, as well as intellectual property rights. They pointed out that existing instruments, such as the United Nations Fish Stocks Agreement and the Convention on Biological Diversity and its Nagoya Protocol, were not relevant to, or did not adequately cover, marine genetic resources beyond areas of national jurisdiction. The view was expressed that it was necessary to clarify whether article 143 of the United Nations Convention on the Law of the Sea on marine scientific research in the Area also covered marine genetic resources. The view was expressed that the provisions of the Convention adequately covered these aspects.

36. Attention was drawn to gaps with respect to effective integrated management of impacts on ecosystems. In that regard, more effective implementation mechanisms were considered critical. While it was noted that the Convention did not provide for a specific regime for the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction, attention was drawn to its Part XII on the protection and preservation of the marine environment. Some delegations noted that Part XIV of the Convention was the least complied with and this should be addressed. This lack of implementation also applied to some of the provisions under Part XIII of the Convention on marine scientific research relating to the duty to publish and disseminate results from research projects.

37. It was also noted that there was no global mechanism for the identification of ecologically and biologically significant areas and the establishment of comprehensive conservation measures, including the establishment and management of marine protected areas and environmental impact assessments beyond areas of national jurisdiction. Some delegations expressed reservations concerning the legitimacy and legality of the establishment of marine protected areas beyond national jurisdiction by some regional organizations, as well as the compatibility of these initiatives with the framework of the Convention. Several delegations also drew attention to the lack of a global mechanism to guide the development of new activities, determine their impact on the marine environment and assess the cumulative impacts of traditional and new activities. Several delegations also emphasized that unregulated activities that were indirectly impacting areas beyond national jurisdiction, including vulnerable and migratory species, should be addressed.

38. With regard to gaps in cooperation and coordination, several delegations urged States to cooperate globally for the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction. It was noted that sectoral and regional management arrangements were fragmented, poorly coordinated and sometimes conflicting in their implementation. Many delegations stressed the importance of effective cooperation and coordination in that regard. The view was also expressed that a more effective coordination mechanism should exist between the General Assembly and the Conference of the Parties to the Convention on Biological Diversity with regard to the description and identification of ecologically and biologically significant areas, and in regard to technical and scientific support by the Conference of the Parties.

39. With respect to information gaps, it was recalled that knowledge of the ecosystems, biodiversity and human activities in areas beyond national jurisdiction was limited. The need to study and better understand the ways in which research on

marine genetic resources was linked to industry and further research and development was highlighted. In particular, some delegations considered that the issues of intellectual property rights related to marine biodiversity in areas beyond national jurisdiction required greater understanding.

40. Regarding ways forward, the view was expressed that reinforcing the international regime for the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction would include ratifying the 1972 Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter and its Protocol; improving the performance of flag States; enhancing port State controls; implementing the United Nations Fish Stocks Agreement; actively pursuing reform of regional fisheries management organizations and arrangements, including improving decision-making relating to them; fostering the capacity to ensure that all States, including developing States, could implement the United Nations Convention on the Law of the Sea and the United Nations Fish Stocks Agreement; and considering how existing institutions with mandates over conservation and sustainable use of marine biodiversity could enhance cooperation and coordination, particularly as regards initiatives, codes of conduct, guidelines and regulations under their purview.

41. Many delegations were of the view that the full implementation of existing instruments, including the United Nations Convention on the Law of the Sea, while important, would be insufficient to achieve the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction. They expressed support for the development of an implementing agreement under the Convention to put its principles into effect and give more specific content to its general obligations, such as those contained in articles 192 and 194, paragraph 5.

42. Delegations noted that an implementing agreement under the Convention could bridge the identified gaps by establishing a comprehensive legal, institutional and governance framework, while maintaining a balance between the interests of developed and developing States. Several delegations expressed the view that such an implementing agreement should be negotiated in accordance with the principles of international law. The view was also expressed that an implementing agreement should not alter rights and obligations under existing treaties, such as the Antarctic Treaty.

43. It was emphasized that an implementing agreement under the Convention would address, together and as a whole, measures such as the establishment of marine protected areas and the conduct of environmental impact assessments beyond areas of national jurisdiction; access to and the sharing of benefits arising out of the utilization of marine genetic resources from areas beyond national jurisdiction; and capacity-building and the transfer of marine technology.

44. The view was expressed that an implementing agreement should also clarify the role of global and regional intergovernmental organizations in the identification and selection of conservation measures for ecologically and scientifically important areas; the effects of those measures for third States; enforcement measures; and the objectives to be achieved and the types of activities to be regulated.

45. With regard to capacity-building and the transfer of marine technology, which were emphasized as important elements of discussions on the way forward, equal participation of research institutions and scientists from developing countries in

multidisciplinary scientific programmes of collaboration for the study and utilization of marine biodiversity of the Area was stressed. It was also suggested that the Global Environment Fund and other donors could contribute to the Endowment Fund of the International Seabed Authority.

Ways forward

46. It was suggested that the focus should be on technical discussions, including in the context of intersessional workshops. Many delegations suggested that the Working Group recommend to the General Assembly at its sixty-seventh session that negotiations for an implementing agreement under the Convention to address the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction should be initiated at the earliest possible date. These delegations also considered that the mandate of the Working Group should be adjusted, with a view to launching negotiations for such an implementing agreement.

47. Conversely, the view was expressed that the elaboration of an implementing agreement under the Convention was premature and that this issue should be addressed after the review of all pertinent aspects of the matter during the intersessional workshops.

Intersessional workshops aimed at improving understanding of the issues and clarifying key questions with regard to the issues identified in items 4 and 5 of the agenda of the Working Group as an input to the work of the Working Group, within the process initiated by the General Assembly in accordance with resolution 66/231

48. Some delegations recalled the mandate of the intersessional workshops, as contained in resolution 66/231, which provided that the process initiated by the General Assembly would take place in the existing Working Group and in the format of intersessional workshops aimed at improving understanding of the issues and clarifying key questions as an input to the work of the Working Group. The view was expressed that the workshops had a complementary role to the work of the Working Group and should not represent a distinct track within the process established in resolution 66/231.

49. In relation to the organization of the workshops, many delegations stated that they should be limited in number and duration. In this connection, a preference was expressed by many delegations for two workshops to be held prior to the next meeting of the Working Group, lasting between two and five days each. It was emphasized that participation by developing countries in the workshops had to be ensured. Many delegations suggested that in order to lower travel costs, the workshops could be held consecutively or in conjunction with other related meetings or processes. Other delegations indicated that they would prefer to allow sufficient time between the workshops to reflect on the discussions and the issues addressed.

50. With regard to the format of the workshops, several delegations referred to expert panel presentations, with time allocated for delegations to exchange views on the issues under consideration. With regard to the nomination and selection of panellists, a number of delegations emphasized the importance of ensuring a balance of experts from developing and developed countries.

51. Several delegations suggested that consultations should take place between Member States and the Co-Chairs on the organization of the workshops, for example in the form of a small steering group. Delegations also proposed the development of guidelines or terms of reference for the workshops. It was also suggested that background papers on key questions could be prepared in advance of the workshops.

52. Many delegations emphasized that the workshops should be informal in nature and open-ended, allowing for participation from intergovernmental organizations, industry groups and civil society. The need for balanced participation between developed and developing countries was emphasized. For this reason, some delegations indicated that the workshops should be convened under the auspices of the United Nations, rather than hosted by Member States.

53. Many delegations indicated that the workshops should not produce recommendations. A general preference was expressed by many delegations for the preparation of a summary by the Co-Chairs, which would be transmitted to the Working Group for consideration. It was emphasized that the outcome of the workshops should not be prescriptive as to policy, but could present options for consideration by the Working Group.

54. With regard to the topics for consideration, delegations made a number of proposals, as contained in the draft terms of reference adopted by the meeting. A strong wish was expressed that the terms of reference be annexed to recommendations to the General Assembly at its sixty-seventh session.

55. Many delegations raised questions concerning the funding of the workshops and indicated that they should be convened within existing resources. Some delegations proposed the establishment of a new trust fund for the purpose of facilitating the participation of representatives from developing countries and of expert panellists in the workshops. A number of delegations also suggested that existing trust funds should be utilized for that purpose.

56. The Director of the Division for Ocean Affairs and the Law of the Sea explained that one of the existing trust funds could be used for receiving earmarked contributions for this purpose.

Information sessions

57. During informal sessions of the meeting, information sessions were held, featuring presentations by Marjo Vierros of the United Nations University Institute of Advanced Studies, entitled "Trends in use and development of marine genetic resources"; by Kristina Gjerde of the International Union for Conservation of Nature, entitled "Conservation in marine areas beyond national jurisdiction"; and by Claudio Chiarolla of the Institute of Sustainable Development and International Relations, entitled "Recent developments in international and comparative patent law relevant for marine genetic resource governance". Brief question and answer sessions followed.

Appendix

Terms of reference for the intersessional workshops

Purpose

1. As decided by the General Assembly in paragraph 167 of its resolution 66/231,[a] intersessional workshops are aimed at improving understanding of the issues related to the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction and clarifying key questions as an input to the work of the Ad Hoc Open-ended Informal Working Group to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction.

2. Pursuant to that decision, two two-day workshops will be convened by the Secretary-General at United Nations Headquarters in the first half of 2013, within existing resources.

3. These terms of reference are intended to clarify how the intersessional workshops will be organized.

Chairs

4. The two workshops will be chaired by the Co-Chairs of the Working Group.

Participation

5. The workshops will be open to all Member States of the United Nations, States members of the specialized agencies, all parties to the United Nations Convention on the Law of the Sea, entities that have received a standing invitation to participate as observers in the work of the General Assembly pursuant to its relevant resolutions, competent specialized agencies, funds and programmes of the United Nations, other competent intergovernmental organizations, and relevant non-governmental organizations and other stakeholders, in accordance with the established practice of the United Nations.

Format

6. The workshops will be organized in panels focusing on the relevant aspects of the selected topics outlined below.

7. Panel presentations will be delivered by experts recognized in their field, who shall serve in their personal expert capacities. Experts will be selected having due regard to the need to ensure equitable geographical representation as well as a balanced representation of all relevant areas of expertise to cover the subjects of the workshops. The selection of the panellists will be conducted by the Co-Chairs in consultation with Member States.

Topics

8. The workshops will address the following topics for the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction:

[a] See also the annex to resolution 66/231.

(i) Marine genetic resources, including:

- Meaning and scope
- Extent and types of research, uses and applications
- Technological, environmental, social and economic aspects
- Access-related issues
- Types of benefits and benefit sharing
- Intellectual property rights issues
- Global and regional regimes on genetic resources, experiences and best practices
- Impacts and challenges to marine biodiversity beyond areas of national jurisdiction
- Exchange of information on research programmes regarding marine biodiversity in areas beyond national jurisdiction.

(ii) Conservation and management tools, including area-based management and environmental impact assessments, including:

- Types of area-based management tools
- Key ecosystem functions and processes in areas beyond national jurisdiction
- Assessments of sectoral and cumulative impacts
- Technological, environmental, social and economic aspects
- Existing regimes, experiences and best practices
- New and emerging uses of, and experimental activities in, areas beyond national jurisdiction
- Impacts and challenges to marine biodiversity beyond areas of national jurisdiction
- Exchange of information on research programmes regarding marine biodiversity in areas beyond national jurisdiction.

The workshops will also consider issues related to international cooperation and coordination, as well as capacity-building and the transfer of marine technology.

Output

9. The output of the workshops will consist of a summary of proceedings prepared by the Co-Chairs for transmittal as an input to the work of the Working Group.

10. An electronic copy of the summary, presentations and additional materials provided by the experts will be posted on the website of the Division for Ocean Affairs and the Law of the Sea.